

1 ORRICK, HERRINGTON & SUTCLIFFE LLP
KAREN G. JOHNSON-MCKEWAN (SBN 121570)
2 kjohnson-mckewan@orrick.com
ANNETTE L. HURST (SBN 148738)
3 ahurst@orrick.com
GABRIEL M. RAMSEY (SBN 209218)
4 gramsey@orrick.com
405 Howard Street, San Francisco, CA 94105
5 Tel: 1.415.773.5700 / Fax: 1.415.773.5759
PETER A. BICKS (*pro hac vice*)
6 pbicks@orrick.com
LISA T. SIMPSON (*pro hac vice*)
7 lsimpson@orrick.com
51 West 52nd Street, New York, NY 10019
8 Tel: 1.212.506.5000 / Fax: 1.212.506.5151

9 BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (*pro hac vice*)
10 dboies@bsflp.com
333 Main Street, Armonk, NY 10504
11 Tel: 1.914.749.8200 / Fax: 1.914.749.8300
STEVEN C. HOLTZMAN (SBN 144177)
12 sholtzman@bsflp.com
1999 Harrison St., Ste. 900, Oakland, CA 94612
13 Tel: 1.510.874.1000 / Fax: 1.510.874.1460

ORACLE CORPORATION
14 DORIAN DALEY (SBN 129049)
dorian.daley@oracle.com
15 DEBORAH K. MILLER (SBN 95527)
deborah.miller@oracle.com
16 MATTHEW M. SARBORARIA (SBN 211600)
matthew.sarboraria@oracle.com
17 RUCHIKA AGRAWAL (SBN 246058)
ruchika.agrawal@oracle.com
18 500 Oracle Parkway,
Redwood City, CA 94065
19 Tel: 650.506.5200 / Fax: 650.506.7117

20 *Attorneys for Plaintiff*
ORACLE AMERICA, INC.

21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23 SAN FRANCISCO DIVISION

24 ORACLE AMERICA, INC.

Plaintiff,

25 v.

26 GOOGLE INC.

27 Defendant.

Case No. CV 10-03561 WHA

**DECLARATION OF ANDREW
TEMKIN IN SUPPORT OF
ADMINISTRATIVE MOTION TO
SEAL RE: ORACLE'S MOTION IN
LIMINE # 6**

Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

DECL. OF ANDREW TEMKIN
CV 10-03561 WHA

1 I, Andrew Temkin, declare and state as follows:

2 1. I am an attorney employed by Oracle America, Inc. ("Oracle"). My current title is
3 Senior Corporate Counsel. One of my responsibilities is supervising Oracle's outside counsel
4 with respect to litigation matters, including Oracle's lawsuit against Google. I am familiar with
5 Oracle's policies and business practices, including what information Oracle considers confidential
6 and does not disclose to the public.

7 2. I submit this declaration pursuant to Civil Local Rule 79-5 in connection with
8 Oracle's Administrative Motion to File Under Seal Re: Oracle's Motion *In Limine* # 6 to exclude
9 certain opinions and testimony of Dr. Kearl. I have personal knowledge of the facts set forth
10 herein, and if called upon as a witness, I could testify to them competently under oath.

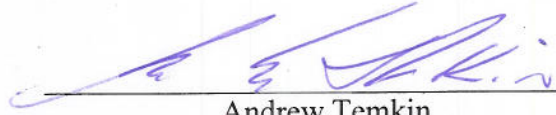
11 3. Dr. Kearl's Corrected March 18, 2016 Report contains confidential financial
12 information constituting Oracle's Designated Material under the Protective Order. The last two
13 sentences of paragraph 92 of Dr. Kearl's report reflect actual and projected Java ME revenues in
14 2015. Oracle's annual revenue information for specific lines of Java business is confidential and
15 has always been treated as such. Oracle does not disclose annual revenue information for Java
16 ME to the public and restricts knowledge of this information within Oracle to a subset of persons
17 who need the information for their business operations. Disclosure to the public and to Oracle's
18 competitors of recent annual revenue information could harm Oracle by giving competitors
19 insight into competitive information that would otherwise remain confidential. Similarly, Dr.
20 Kearl's projection for 2015 Java ME revenue, if disclosed to the public, would permit competitors
21 to calculate actual Java ME revenues. Accordingly, Oracle requests that actual and projected
22 Java ME revenues reflected in paragraph 92 remain under seal. Oracle submits that the risk of
23 competitive harm that would be created by public disclosure of this information amounts to a
24 compelling reason to grant Oracle the narrow sealing order requested herein.

25 4. Exhibit 6 to Dr. Kearl's report reflects actual and projected Java ME licensing
26 revenue for each year from 2009 to 2015. For the reasons discussed above, Oracle requests that
27 such data remain under seal for the years 2014 and 2015. In addition, Exhibit 6 reflects data
28 regarding incremental expenses for Oracle's Java ME business. This information is confidential

1 and has always been treated as such. Oracle does not disclose incremental expenses for Java ME
2 to the public and restricts knowledge of this information within Oracle to a subset of persons who
3 need the information for their business operations. Disclosure to the public and to Oracle's
4 competitors of this information could harm Oracle by giving competitors insight into competitive
5 information that would otherwise remain confidential. Accordingly, Oracle requests that
6 incremental expense information for 2014 and 2015 remain under seal. Oracle submits that the
7 risk of competitive harm that would be created by public disclosure of this information amounts
8 to a compelling reason to grant Oracle the narrow sealing order requested herein.

1 I declare under penalty of perjury under the laws of the State of California and the United
2 States of America that the foregoing is true and correct to the best of my knowledge.

3 Executed this 30th day of March, 2016, at New York, New York.

4
5 
6 Andrew Temkin